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09/022,132	02/11/98	D'ACHARD	J PHN-16.219

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EXAMINER

WHITE, C

ART UNIT

PAPER NUMBER

3713

DATE MAILED:

11/22/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

41

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## Office Action Summary

Application No.

09/022,132

Applicant(s)

D'ACHARD, JOHANNES F.M.

Examiner

Carmen D. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☒ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 14) ☒ Notice of References Cited (PTO-892)
- 15) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 16) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 17) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 18) ☐ Notice of Informal Patent Application (PTO-152)
- 19) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 4 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Breslow.

Regarding claims 1 and 6, Breslow discloses a video game system that enables a player to interact with the gaming environment (fig. 4d), detects a score of the player (figure 4d, #66), feeds into the gaming environment a representation of the score in visual form through an item that identifies the player in question (figure 4e), and a camera means for taking up a video image of the player in question (figure 2, #14).

Regarding claims 2 and 7, Breslow discloses the limitations as discussed above. Breslow further includes the feature of ranking the players and displaying an image of one or more high-ranking players (figure 4e, #76 and #78).

Regarding claim 4, Breslow discloses the limitations as discussed above, further including the composite image of the player and one or more selected items (figure 4c and figure 4d).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breslow in view of Sitrick ('014).

Regarding claims 3 and 8, Breslow discloses the limitations of the claim as discussed above. Breslow lacks in disclosing the feature of a multiple player environment in which the video image is transmitted to multiple players. Instead Breslow discloses a video game discloses a video game in which the image of a player is incorporated into a single game and viewed by subsequent players. In an analogous video gaming system, Sitrick ('014) discloses transmitting of a player's video image to the display of other players (column 1, lines 34-49). The art benefits from the visual interaction of multiple players as taught by Sitrick ('014) because it makes the game more exciting for players. One skilled in the art would understand Breslow's teaching as being a video game system that allows for multiple players to interact other players

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involved in the game via player video imagery. It would have been obvious to one of ordinary skill at the time of the invention to include multiple player feature of Sitrick ('014) in the invention of Breslow to make a video game more challenging and enticing for players.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breslow in view of Hogan et al or Weiss.

Breslow discloses the limitations of the claim as discussed above. Breslow lacks in disclosing a system in which video imagery can be suppressed and not transmitted. Instead Breslow discloses a video game discloses a video game in which the image of a player is incorporated into a single game and viewed by subsequent players. Hogan et al or Weiss in the analogous system of video imagery discloses the feature of allowing a user to suppress the transmission of a video image of the user to other users in the event the user does not want to be viewed (Hogan et al- col. 1, lines 34-44; Weiss- col. 6, lines 30-55 and col. 8, lines 52-56). The art benefits from the video imagery system of Hogan et al or Breslow because it allows the users an option of whether or not to be viewed by others. This is highly beneficial in cases where a user does not feel presentable or has disfigurements that he/she does not want others to see. Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to include the suppression feature of Hogan et al or Weiss in the invention of Breslow.

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6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sitrick ('065), Sitrick ('509), Sitrick ('864), Parulski and O'Callaghan disclose similar video gaming systems. Smith et al and Stults et al disclose systems where users can send images of themselves to multiple other users.

**Contact Information**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carmen D. White whose telephone number is 703-308-5275. The examiner can normally be reached on Monday-Friday, 8:30 am- 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703-308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7768 for regular communications and 703-308-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.



Carmen White  
Patent Examiner

November 18, 1999



MICHAEL O'NEILL  
PRIMARY EXAMINER